

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JUAN CARLOS RIVERA,

Plaintiff,

vs.

CLARK COUNTY, NEVADA *et al.*,

Defendant.

2:11-cv-0001-RLH-NJK

REPORT & RECOMMENDATION
OF UNITED STATES
MAGISTRATE JUDGE

This matter is before the Court on the failure of Plaintiff, Juan Carlos Rivera to appear at the hearing scheduled for October 22, 2012.

Upon review of this matter, the Court makes the following findings,

1. On February 1, 2011, the Court held a status hearing in this case and ordered Plaintiff, Juan Carlos Rivera to file an Amended Complaint on or before March 30, 2012. More than a year later, on April 18, 2012, Plaintiff, Juan Carlos Rivera, filed an Amended Complaint (#7).
2. On September 27, 2012, the Court entered an Order (#8) scheduling a status hearing for October 22, 2012, on the Amended Complaint (#7) .
3. The Order (#8) was served on Plaintiff by the United States Postal Service by certified mail, return receipt requested. *See*, Certified Mail Receipt (#9).
4. Plaintiff, Juan Carlos Rivera failed to appear for the hearing scheduled for October 22, 2012. He did not seek a continuance of the hearing, and he failed to contact the Court to provide a reason for his non-appearance.

5. On October 24, 2012, Magistrate Judge Johnston recommended this case be dismissed with prejudice. *See*, Report and Recommendation (#10).

6. On October 29, 2012, Plaintiff Juan Carlos objected to the Report and Recommendation and submitted a new address to the Court. *See*, Objection (#11).

7. On November 16, 2012, the Court did not accept nor adopt the Report and Recommendation. *See*, Order (#13).

8. The Court referred the matter back to the Magistrate Judge to schedule another status hearing and provide the Plaintiff another opportunity to show why his case should not be dismissed. *Id.*

9. On December 18, 2012, the Court entered an Order (#14) scheduling a show cause hearing for December 27, 2012.

10. The Order (#14) was served on Plaintiff by the United States Postal Service by certified mail, return receipt requested, at the new address the Plaintiff provided the Court in his Objection (#11). *See*, Certified Mail Receipt (#15), and Certified Mail Delivery Confirmation (#17).

11. Plaintiff, Juan Carlos Rivera failed to appear for the hearing scheduled for December 27, 2012. He did not seek a continuance of the hearing, and he failed to contact the Court to provide a reason for his non-appearance.

RECOMMENDATION


IT IS THE RECOMMENDATION of the undersigned Magistrate Judge that this case be
DISMISSED WITH PREJUDICE.

NOTICE

Pursuant to Local Rule IB 3-2 [former LR 510-2] any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within (14) days after service of this Notice. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas*

1 v. *Arn*, 474 U.S. 140, 142 (1985), *reh'g denied*, 474 U.S. 1111 (1986). This Circuit has also held
2 that (1) failure to file objections within the specified time and (2) failure to properly address and
3 brief the objectionable issues waives the right to appeal the District Court's order and/or appeal
4 factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th
5 Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

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7 DATED this 11th day of January, 2013.

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11 NANCY J. KOPPE
12 United States Magistrate Judge
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